

Executive Protest, Prerogatives, and Patronage.

S P E E C H

OF

HON. CHAS. L. BEALE, OF NEW YORK.

Delivered in the House of Representatives, June 13, 1860.

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Speech of Mr. Beale.

MR. SPEAKER: I ask that the resolutions submitted to the House of Representatives on the 5th day of March last, by the honorable gentleman from Pennsylvania, [Mr. Covode,] be read by the Clerk. The clerk read as follows:

Resolved, That a committee of five members be appointed by the Speaker, for the purpose of investigating whether the President of the United States, or any other officer of the Government, has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory; also to inquire into and investigate whether any officer and officers of the Government have, by combination or otherwise, prevented and defeated, or attempted to prevent or defeat, the execution of any law or laws now upon the statute books, and whether the President has failed or refused to compel the execution of any law thereof; that said committee shall investigate and inquire into the abuses at the Chicago and other post offices, and at the Philadelphia and other navy yards, and into any abuses in connection with the public buildings and other public works of the United States.

And resolved, further, That as the President, in his letter to the Pittsburgh centenary celebration of the 25th November, 1858, speaks of the employment of money to carry elections, said committee shall inquire into and ascertain the amount so used in Pennsylvania, and any other State or States; in what districts it was expended, and by whom and by whose authority it was done, and from what source the money was derived, and to report the names of the parties implicated; and that, for the purpose aforesaid, said committee shall have power to send for persons and papers, and report at any time."

Sir, the special "message of the President of the United States, protesting against these resolutions, and certain proceedings of the House of Representatives thereon," presented to that body on the 28th of March last, excited great surprise, and produced a deep impression upon the public mind.

For the first time in our political history, the Executive department of the Government has attempted to arrest the action of the Representatives, violating their privileges, and reprimanding them in terms of severity.

These Representatives are fresher from the people than the President, and might be supposed to reflect with more clearness their will;

and both will render, at the same time, an account of their stewardship.

To the people, we are alone responsible. To them, through this House, the President has appealed, and before that tribunal we are willing to go.

We have been charged by the President with a violation of the trust reposed in us, and with an invasion of his rights and immunities. If such be the case, we are censurable. If, on the contrary, Representatives have but done their duty, and if the allegations contained in the protest are unfounded in fact, or unfair of inference, we owe it to our constituencies that the powers and privileges of the popular branch of the National Legislature shall not be questioned.

I have said that this paper created surprise throughout the country; not less so, if appearances indicated aright, in the party with which the President professes to be connected, and among its representative men on the floor of this House. Beyond the sunshine of Executive smiles, the masses of that party condemned or deprecated it; and some among those who enjoy his liberality—"whom he has made, and not they themselves, who are the people of his bounty and the sheep of his band"—have dared to whisper dissent to the assumptions of this protest.

And upon the other side of this Chamber, there were honorable gentlemen who kindled not readily at the wrongs which Republicanism had inflicted upon the head of their great party—gentlemen who have carefully kept themselves inside of the Democratic organization throughout the session, unless the majority resolutions reported at Charleston, and those other resolutions recently passed by the Democratic majority of the Senate, shall operate in bar of any future claim to that appellation.

It appeared to me that the President found but few sympathizers with his peculiar views of Executive prerogatives and immunities, and that

those gentlemen who came to his rescue on that occasion took counsel of their gallantry, rather than of their deliberate judgments. Like the English brigade in the Crimea, although conscious that "somebody blundered," yet urged by the admirable discipline of the Democratic party—

"There's not to reason why,
There's but to do and die;
Into this valley of death
Rode the half a hundred."

The honorable gentleman from Virginia, [Mr. Bocock,] who entered most zealously upon the defence of the President, did not attempt wholly to sustain the propositions contained in this protest; and, indeed, the only point which he made, with any satisfaction to himself, was the "tu-quoque" argument addressed by him to the chairman of the investigating committee, the honorable gentleman from Pennsylvania, [Mr. Covode;] and even that argument partook more of an adroit parliamentary finesse, intended to draw away public attention from the issue, than as any answer to that gentleman, or any justification of the President.

While the honorable gentleman from Virginia reminded the House of the epic hero striving to bear his aged father and the gods of his household from the enemy, it could well be remarked that his piety exceeded his filial love; that he cared more for the *gods* of the Democracy than for the at present aged, trembling, and blind form who sustains them.

I have said that the presentation of this protest stands alone upon the record of our country's past.

The protest sent in by President Jackson to the Senate of the United States, April 15, 1834, and which evidently suggested the present one, cannot be compared with it. They differ, *totò cœlo*, in the provocation, in the body to which they were addressed, in the subject matter discussed, and in the character and extent of the powers asserted and denied in each.

The one of President Jackson was addressed to the Senate of the United States, relative to a condemnatory resolution passed by that body, when the President had enjoyed no opportunity of trial upon the grave charges made against him; which resolution was as follows:

"Resolved, That the President, in the late Executive proceeding in relation to the public revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both."

President Jackson protested against the passage of this resolution:

1. Because the Senate was not, under the Constitution, an accusing body, but a tribunal.
2. That if the allegations in the resolution contained were true, he was liable to impeachment, which impeachment must be tried before the Senate.
3. That the Senate, having prejudged his case, could not be considered an impartial tribunal.
4. That all accusations tending toward impeachment should originate in the House of Representatives.

The resolutions passed on the 5th of March, and against which the President protests—

1. Were not passed by the Senate, but by the House of Representatives.

2. Were not condemnatory, but of inquiry simply.

Had the President carefully examined the protest of his predecessor, he could not have failed to perceive a full recognition of the power, in the House of Representatives, to do all which it has done in this case.

President Jackson, in that protest, speaking of the President, says:

"Indirectly also his conduct may come under revision in either branch of the Legislature, or in the Senate, when acting in its executive capacity, and so far as the executive or legislative proceedings of these bodies may require it, it may be examined by them."

I cannot conceive how the term "*indirectly*" can have a more appropriate application than in the resolution of inquiry adopted by the House. It is used by President Jackson in contradistinction to *impeachment*, and refers to any other proceeding which the House of Representatives might initiate against the Chief Executive officer of the Government.

President Jackson continues:

"The Constitution makes the House of Representatives the exclusive judges, in the first instance, of the question, *whether the President has committed an impeachable offence.*"

But President Jackson goes much further than did the House of Representatives in the adoption of the offensive resolutions of the gentleman from Pennsylvania. The House never sought, in the latter case, to adjudge the question whether the "President had committed an impeachable offence," but were simply desirous to acquire such information as might enable them to form a judgment, and to censure, prepare articles of impeachment, or dismiss the whole matter, as should seem to them proper. President Jackson calls us the "*judges*," "the exclusive judges." Not judges of the law merely, but of the fact—of facts to be ascertained from evidence. The resolutions of the gentleman from Pennsylvania provide merely for the procurement of that evidence.

President Jackson, speaking further of the unauthorized resolution of the Senate, says:

"But if, on the other hand, the House of Representatives shall be of opinion that there is no reason for charging them upon him, and shall therefore deem it improper to prefer an impeachment, then will the violations of these privileges, as it respects that House, &c., be only the more conspicuous and impressive."

Here the predecessor of the present Executive speaks in strong terms of the *privileges* of the House, of the *violations* of that *privilege*, and the power to decide whether or not the House would prefer such impeachment, is the *privilege* spoken of.

If the action of the Senate interfering with this right of determination was a breach of privilege in 1834, according to Democratic authority, shall we be deemed severe, if we charge the President of the United States with a breach of the privilege of this House in an attempt to arrest action simply preliminary to the decision and the impeachment spoken of in the authorities I have cited?

I have alluded to the protest of President Jackson, because I deem the authority in point in this case; because it is the only Presidential

protest on record, and became a precedent, so faithfully followed in everything, except its great principles, as to remove from the subject of our examination any suspicion of originality. I have quoted it, as the authority of his great name, his distinguished merit, his patriotism, and his honesty, commend his views to our acceptance, and give them the highest sanction in the Democratic party itself. Had the present protestant but followed in all things the example of his predecessor, neither he nor we would have had occasion to hear the expression, that the days of General Jackson had passed.

In this connection, it might be further remarked that the resolution condemnatory of President Jackson was passed by the Senate on the 28th day of March, 1834, and that the protest was not presented until the 15th day of April of the same year, and after all proceedings were terminated; while, on the contrary, the present Chief Executive interposed his protest before the action contemplated by the resolution had been closed, and while investigations under the same were progressing.

I propose, then, Mr. Speaker, to assume in this discussion that the President of the United States has been guilty of a breach of the privileges of this body, and, in an analysis of his protest, to show how incorrect are his assumptions, and how dangerous they are to the future welfare of the Republic.

The President professes to speak soberly and advisedly, and upon due reflection, and we are bound to suppose that he has weighed well all that he has said; that he has examined the whole ground, and is sure in his position. I would that it were otherwise, and that in charity we might suppose that, influenced by sudden pique at a proposition to investigate his conduct, he uttered, in tones of impatience, the protest with which he has honored us.

The deliberate publication of so grave a State paper demands at our hands a more earnest and careful scrutiny than if otherwise; and, if the facts and circumstances therein contained are wrong, demand from us more emphatic condemnation.

The first and chief complaint of the President is, that the resolution accuses him of grave offences, and that the House of Representatives possesses no power so to accuse, but can only proceed against him by preferring articles of impeachment.

We admit neither of these propositions—neither the statement of fact, nor the statement of law.

These resolutions are not accusatory—they are but of inquiry; they are not condemnatory—they but request an investigation; they are not conclusive, but preliminary.

By well-founded rumors, by the President's letter of November 25, 1858, or by whatever other means, a reasonable suspicion is aroused in the public mind, that one of the departments of the Government is tainted with corruption. It became the duty of the popular branch of the Government—the immediate Representatives of

the people—to proceed energetically and efficiently.

It is true, as the President says, that “the trial of an impeachment of the President before the Senate, on charges preferred and prosecuted by the House of Representatives, would be an imposing spectacle to the world;” but so to dignify such trial, and to properly convict and punish the offender, the articles of impeachment should not only be presented at the bar of the Senate with fidelity and ability, but should be founded upon such information as would give them force and effect in themselves, and accompanied by such testimony as would abundantly support them.

To obtain such information, and to be enabled so to prepare such articles, a preliminary investigation was essential; just such an investigation as is contemplated by the resolutions of the gentleman from Pennsylvania.

Official malversations, like private offences, are rarely committed by daylight, where they are seen of all men, and information whereof is easily accessible. On the contrary, they are done with a certain degree of secrecy sufficient to require inquiry and scrutiny. Such inquiry, and that alone, these resolutions contemplate.

The preliminary investigation is parallel to that of complaint for private offences. Complaint is lodged before the magistrate, often of the most indefinite character; the examination is conducted with reference to future action, committal, trial, or discharge. Or a complaint is made before the grand inquest of the county; the investigation is conducted *ex parte*, with no opportunity for the accused to confront the accuser, in secrecy, under oath; and, upon the information thus obtained, the jury discharge the complaint, or direct their law officer to frame his bill of indictment, and carry the cause before the higher and ultimate tribunal for adjudication. And, to render the parallel still more perfect and striking, each member of that grand inquest stands bound by the highest sanctions of duty—his oath—to present “without fear, favor, reward, or hope of reward,” all offences or offenders of which he individually has any cognizance.

Is not the principle the same with us? We are in one sense the grand inquest of the nation, and we are “diligently to inquire and true presentment make” concerning all offences coming under our jurisdiction.

Nor does this proceeding stand unsupported by the authority of Parliamentary precedent. Two occur to me, familiar to every member of this House, and which have passed into history and fame. The first is the case of Robert Clive, first Governor General of India, in which he stood suspected of high malversation in office. A special committee of the House of Commons was “chosen to inquire into the affairs of India,” and especially into the administration of the public affairs of that country by Mr. Clive. This committee proceeded with great energy and vigor, nearly exhausting two sessions of the House of Commons, inquiring into the entire official career of the Governor, and reporting the

evidence adduced to the House; and it is matter of record that General Burgoyne, the accomplished chairman of that committee, and a leading member of the House of Commons, was the chief accuser of the Governor. And, upon the evidence thus adduced, the House of Commons itself acted, and passed two resolutions censuring the course pursued by Mr. Clive, but refusing to pass another resolution tending toward an impeachment.

The second instance is that of the still more illustrious man, a successor of Lord Olive in the government of India, and whose impeachment and trial drew forth the finest denunciatory eloquence since the Roman orator "thundered against the oppressor of Sicily."

In the case of Mr. Hastings, a committee of inquiry had reported upon his administration; and upon that report, and upon the charges thereupon preferred, and upon agreeing to the articles of impeachment, the great debate arose in the English House of Commons, which terminated in agreeing to charges, the arraignment of the illustrious culprit, and the memorable attempt to impeach him of high crimes and misdemeanors at the bar of the House of Lords.

In the latter case, also, arose the very question raised by the President in his protest, "that his accuser had been made one of his judges;" and when Mr. Francis was objected to upon similar grounds, it was urged with great force by Mr. Wyndam, one of the managers of the impeachment, that "impartiality, though the first duty of a judge, had never been reckoned among the qualities of an advocate; that in the ordinary administration of criminal justice in England, the aggrieved party, the very last person who ought to be admitted into the jury-box, is the prosecutor; that ~~we~~ it was wanted in a manager was, not that he should be free from bias, but that he should be energetic, able, well-informed, and active." And Mr. Francis was rejected at last, only upon the ground of his inveterate personal hostility to the accused.

These two cases, without citing to the House numerous others, English and American, appear to me to sustain fully the resolutions of inquiry adopted by this House, and the appointment of the committee under those resolutions, and their action. Nor do I agree, Mr. Speaker, with the President, that this House is confined to *impeachment* of the President. In the first place, this body, under the Constitution, is the sole judge of the course it will pursue toward any offender, and may measure out to him the punishment commensurate with the offence.

If, instead of preferring articles of impeachment upon the evidence reported by the committee of inquiry, they deem the offence deserving only of *censure*, theirs is the unquestionable right to administer that censure, and in a milder or severer form, as they shall judge proper.

The appeal of the President from such action is only to the intelligent public opinion of the people, and I can assuredly say that to that tribunal in this country no public man has ever carried a meritorious case in vain. Indeed, the President would stand there with many advan-

tages over his opponents; for the hidden sympathy with the rightfully or wrongfully accused, which forms so large a part of popular feeling and the popular heart, would at first commend his side of the case to their approval. But to that tribunal this House, even now, is willing to go, and by their decision to abide. I cannot divest my mind of the impression, that to that tribunal, rather than to this House, indirectly, the President's protest was intended to go as a *case made*.

The President also complains that his accuser has been made one of his judges. And again, that the same is in "violation of the principles of universal justice, and condemned by the practice of all civilized nations, and that every free-man must revolt at the spectacle."

Such an assertion might be disposed of by the fact that no accusation has been made against the President. Let the resolutions speak for themselves, and they effectually negative the assertion. But even if the same were true, the conclusions of the President by no means follow. An accusation is not a judgment, and our laws, as before stated, recognise the propriety of an accuser constituting one of an accusing tribunal, and compel each member to become an accuser of all offenders known to him.

In the case of Clive, above cited, Burgoyne, the accuser, and the mover of the resolution, was made chairman of the committee; and in the case cited by the honorable and distinguished chairman of the Judiciary Committee, in his able report, Mr. Whitbread, mover of the impeachment against Lord Melville, was appointed one of the committee raised.

Nor can I see why, in a matter either of accusation or of inquiry, as in this case, the mover of the resolution should be excluded from the committee and the chairmanship of it, in accordance with all parliamentary practice and precedent.

If the President had been left friendless upon this committee, he might perhaps have reason to complain, and might with more propriety charge anticipated unfairness. But the presence of the experienced parliamentary skill, acknowledged ability, and personal friendship, of the honorable and distinguished gentleman from North Carolina, [Mr. WINSLOW,] should have removed all apprehension on the part of the President, and shamed his imputation of unfairness.

The President complains that the resolutions are vague and indefinite. In his own language—

"The resolutions are as vague and general as the English language affords words to make them."

If the resolutions were accusations, their vagueness could scarcely be urged as a valid objection to them, for a vague accusation is no accusation, and did not deserve at the hands of the President the notice with which he has honored it. In every court of law, of honor, or of Parliament, precision is of the essence of an allegation; and any charge, rambling, undefined, or vague in its character, if it at all arrested the attention of a defendant, would be required to be made certain, would demand explanation, or would be disregarded.

But if the resolutions are merely of inquiry, they are of necessity vague. They are often based upon suspicion, upon hearsay, and, at best, upon general and imperfect information. The object of the resolutions is to obtain precise information upon which to ground specific allegations. If the contrary were the fact, no investigation would be necessary; for upon accurate information charges could be preferred without any preliminary inquiry. Investigations of all cases of corruption, bribery, or crime, are based upon vague information, and seek from the little in possession to ascertain the entire truth.

The mistake of the President in this, as in his former objections to the resolutions, consists in his determination to regard them as condemnatory, and as final judgments upon himself and his official conduct.

This sensitiveness and determined perversion of the true intent of the resolutions, awaken not a little suspicion, and justly expose the President to the charge of a desire to suppress investigation, and avoid its consequences.

Against this suspicion, the President, in anticipation, declares emphatically that he makes this protest "for no reason personal to himself." Why indulge in such a forecast? Every presumption should be in favor of the supposition that the President, acting as the great conservator of the Constitution and laws, was actuated by a simple desire to protect both. The law so regards every official, and would so interpret every message of the President, if disconnected from circumstances impeaching the assumption.

But those circumstances, the array of the President's argument, and his gratuitous disclaimers of egotism, justify the country in suspecting and condemning him.

The President, after congratulating himself upon the "exalted position" which he accidentally occupies, assures us that "he will take care, so far as in him lies, that the rights and prerogatives of the position shall never be violated in his person, but shall pass to his successors unimpaired." Interpreted by the circumstances of this case, the expression is one of deep significance. The term prerogative has ever been displeasing to the ears of freemen; and the struggle between *prerogative* and privilege has ever been the struggle between the Representative and the Executive to prevent or procure the transition of power from the many to the few, has ever involved the constitutional rights of the former, and has ever been the covert blow aimed at popular liberty by the Executive. We will take from the President of the United States no right guaranteed to him by the Constitution. We will infringe upon none. But, sir, we are bound to watch with jealous eye the prerogatives of any officer. And we will watch those of the President. We will keep it within the defined limits, and we will denounce its undue exercise.

The President's allusion to the "Star Chamber" and "General Warrants" have a juxtaposition to his defence of "*prerogatives*," full of meaning suggestion. They were all involved in that great struggle whose historic record is the

proudest of England's many heroic conflicts, and which resulted in the establishment of constitutional safeguards for popular liberty, and in legislative guaranties for the rights and redress for the wrongs of the citizen.

With the spirit of that strife, our Revolutionary sires were deeply imbued, and the duty of us, their descendants, is to preserve it intact.

With us, also, that other doctrine, asserted by the Stuarts, and shadowed forth all through this protest, that the right of the ruler is divine, and that he can do no wrong, meets with equal reprobation.

These odious doctrines led one *Scotch* sovereign of England through the windows of Whitehall upon the scaffold, and drove another to a returnless exile from throne and friends. The President may learn a lesson from the latter, and in the fate of his namesake see his own foreshadowed.

The President has called our attention to his age, and shelters the extravagance of his assumptions at that sanctuary. Sir, the President can invoke no reverence for age itself, to which my heart will not devoutly respond. I yield to none of my associates, to no man, in reverence for the "hoary head." But, sir, let it be that old age which approaches its final harvest crowned with the fruit and the whiteness of public and of private virtues, that age going down like the sinking sun, whose disk from behind the great verge illumines the western sky, and shines far back toward its eastern morning, until it pales amid the coming out of the summer stars.

The President reminds us of his "gray hairs." We might remind him that those sacred snows should have cooled the ardor of many a denunciation in this protest, ere he asked at our hands consideration for them.

It was not in the best taste for the President of the United States, a high public functionary, to allude to either. He was not too old to enjoy the sweets of official position; let him assume its responsibilities; and the difference is wide between the old age of private life, the old age which only comes forth like the "venerable man" of the poet, to soothe the public tumults, and bring peace to his country, and the age of the veteran politician and office-holder, who grasps the reins of power with palsied hand, and reminds us, in this protest, "how fields were won."

The *age* and *gray hairs* which are aggressive can claim no exemption. That flag of truce which nature holds out, must cover no advancing foe, must wave over no hostile outpost. To neither of these will it afford immunity; and by a rigid construction of every rule of warfare, it would even exempt such vanquished from mercy.

With much of complacency, the President asserts that "the present is the first attempt to assail his personal or official integrity;" that he "feels proudly conscious that there is no public act of his life which will not bear the strictest scrutiny."

Sir, I will not attempt to assail the personal integrity nor invade the private life of the President. This is no place, nor is that the warfare

in which I ever indulge toward a political opponent. A warfare of crimination is an ungenerous, unmanly warfare. Against it, all the sanctities of private life, all the charities of humanity, and the age to which the President alludes, lift a shield before his breast. But, sir, to his public acts I may allude; nor will I pass within the entrenchments of this committee, and gather facts and conclusions from its investigations. I will content myself with what history has already made her own, and garnered up for us and coming time.

I might call the attention of the House to the calumny originating with the President, while a Representative in Congress in 1825, and which for years hung like a sombre cloud over the name of the illustrious "Commoner" of Kentucky, and the only refutation of which, tended to obscure the fame of the patriotic and gallant Jackson. A charge oft and completely refuted, but which, earnestly persisted in, accomplished its object, and once and again bore back from the highest positions its noble victim; a charge which, credited by thousands, followed him to his final rest; but, yielding to that last demonstration, dissolved in tearful regrets upon his corse. And, sir, around those cold remains, as in their great tranquillity they traversed the Union he so much loved, gathered more of earnest earthly honor than followed his maligner as his triumphant foot pressed the eastern porch of the Capitol; more than has concentrated round his Administration, or graced his whole public career. And justly, too, for the former, even in his ceremonies, murmured, Peace, *peace*; peace to jarring sections; peace to conflicting interests; peace to the angry passions of men; peace to that whole country to whose interests his life and death were consecrated. While the latter, finding the gates of Janus shut in peace, burst their bars, and through them sent the sword and the Furies.

Sir, although the soil of Kentucky embraces the ashes of Henry Clay, still he is of the Union; still we hear as from a trumpet, his manly acknowledgment of the evils and earnest warning against the extension of the *peculiar institution*—the institution whose swart statue stands today the Deity of the White House, and for whose worship and its propagation modern Democracy has become a missionary enterprise.

I wonder not, sir, that the gallant Opposition in this House, the Clay Whigs of the South, some of whom stood close by his standard, cherish as of religion his memory, and have scorned to strike hands with the minions of his foe. And in that respect for his memory, sir, I, who ever withheld my vote, but not my heart, from their chivalric leader, would unite with them, and would lay my chaplet upon his grave.

Mr. Speaker, in 1844, the majority of the Democracy presented the name of an illustrious statesman from my native State and district for the highest office in the gift of the people. He was the choice and favorite of such majority. His financial policy was deemed necessary to, and has become identified with, the prosperity of the country.

In the Democratic Convention which that year assembled at Baltimore, the Pennsylvania delegation stood instructed and pledged to Mr. Van Buren; but by the machinations of Mr. Buchanan, then Senator in Congress, and his present prime minister, under the dictation of Southern Democracy, the absurd "two-thirds rule" was initiated, was carried by twelve Pennsylvania votes, and another rival removed from the path of the present Executive. And, gentlemen of the Northern Democracy! you who are desirous of nominating another Northern candidate at another Baltimore Convention, pardon me if I simply refer you to the history of the Convention of 1844, and say, "read the books of the Sybil."

In 1846, the Democracy of my own State nominated for Governor her favorite son, the man who had elected the Democratic President of 1844, and had given to Mr. Buchanan the portfolio of office. That man, thus deserving, was struck down by the same hand, and went back to his home, his farm, his grave. Sir, it is matter of history, that Mr. Wright was defeated in 1846, at Washington, by the President and his Secretary of State and of War, because he dared to oppose the aggressions of slavery, and those who kissed its sceptre. He was defeated, sir, but no earthly reverse or enemy could triumph over the soul of Silas Wright. He went back to the plough and field he so much loved, and from which alone he boasted any honors. He went back the object of a popular love, which built itself, like a triumphal arch, over his passage to private life. He went back the centre of bright hope to millions—the coming man for the coming time; and there, sir, this Christian Cincinnati met and yielded to a mightier than earth. Amid the rural scenes, the rural pursuits, the rural friends of his earlier and mature years, he "passed the bourne." His stern integrity, his purity, his manly simplicity of character, his wide-reaching mental grasp, his logical acumen, his persuasive eloquence, his firmness indomitable, his winning popularity, his unspotted patriotism, all constituted him great in the Senate, great in administration, great in his party, great in the walks of private life. Sir, he was the leader of the young Democracy of his State. He imbued them with his economic ideas of finance, with his progressive ideas of retrenchment and reform, and he "organized victory" for them. Like Hamilcar, he led them to the altars of freedom, and, like the young Carthaginians, they swore eternal opposition to the aggressions of slavery. He fell, sir, by private hands, on the edge of the field, as the battle was beginning, and of that death, its authors, and results, we may use the language of the French Demosthenes: "So perished the last of the Gracili by the hand of the Patricians; but having received the mortal blow, he threw a handful of free dust toward Heaven, attesting the avenging gods." And from that dust came the Republican party, less great for having exterminated the Democracy of New York, than for having dealt the blow upon the proud crest of the oligarchy itself. He fell,

but his dying hand pointed us forward to the broad and luminous pathway in which we should tread; and, sir, we will tread that steep but upward ascent, not that we may reach such fanciful heights as those spoken of by my eloquent colleague, [Mr. J. COCHRANE,] and from which he, like the original from whom he quotes, standing beside the heathen prince or principle, courting the proffered bribe, and apostate from the true faith, exclaimed, "How beautiful are thy tents, O Democracy; and thy tabernacles, O St. Tammany!" but that serener atmosphere, where dwells Liberty, "teaching the world how sublime a thing a free people is." New York, sir, has no reason to love the President or his premier. Retribution, in the name and by the hands of liberty, fell upon the latter in 1848. In 1856, a plurality of 80,000 against the President testified the desire of her sons to avenge the double wrong to the living and the dead. Now, as then, the true Democracy of that State range under the Republican banner, and the young Knights of Freedom, who won their spurs in 1848, true to the purity of their early principles, wear in this great quarrel the white rose of York, and not the bloody one of Lancaster.

But, sir, I pass to notice lastly that sentiment of the President's protest, "that the whole proceeding against him justifies the fears of those wise and great men, who, before the Constitution was adopted by the States, apprehended that the tendency of the Government was to the aggrandizement of the Legislative at the expense of the Executive department."

Sir, the history of the Convention which framed that Constitution will correct the error of the protest.

The history of its adoption by the different States, and the debates upon it, equally convict the President of error.

Madison, Randolph, Henry, Jefferson, Pinckney, Ireton, and Hamilton, expressed their apprehension that the Executive under the Constitution would become usurpers of power and prerogative.

Such peculiarly were the apprehensions entertained by the Republican party under the lead of Mr. Jefferson.

Serious apprehensions were entertained and expressed by them, that the Constitution tended to build up an irresponsible central Government, dangerous alike to the rights of the States and to those of the people at large, and aggressive upon that branch of the National Legislature in which the rights of the people were more immediately represented.

Recent events have shown how well-founded were these apprehensions; and, in the light of their accumulated evidence, the expression of the President appears as suspicious as it is extraordinary. Shall we attribute it to recent perversion, or to ancient Federal instincts. Is it the desire on his part to deceive others, or have the weaknesses of either extreme of life confounded the errors of both?

Sir, I traverse this sentiment of the President's protest, and declare that to-day a central power has been built up and strengthened by the last

two Administrations, which bids us see to it that the "Republic takes no harm," and that this power is wielded by the Executive.

What, sir, is the language of the Constitution?

"The executive power shall be vested in the President of the United States of America."—(*Constitution, art. 2, sec. 1.*)

"The President shall be Commander-in-chief of the army and navy of the United States, and of the militia, &c. He shall have power, by and with the advice and consent of the Senate, to make treaties, &c. He shall nominate, and, by and with the advice and consent of the Senate, appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law," &c.

Such, sir, are his prerogatives and privileges, and upon none of these have the House of Representatives infringed; but, sir, *by* these has he usurped extravagant, unusual, and most dangerous powers, and so exercised them as to abridge the rights of the people, and to violate the privileges of their Representatives. By means of his appointing power alone, has he demoralized his party, and reversed the theories of our fathers, that all power emanated from the people, and should control their public servants.

In practice, power in patronage comes from the Executive, and that patronage has been so exercised to crush out the individuality of the appointees, to enforce blind obedience to Federal dictation, and exactness of party discipline, that men, independent and high-souled, have been driven from position, and their places have been supplied by the servile and unworthy; by men who form the Prætorian band of the Administration, and, like those of former days, obey an imperial edict alone, and like them may "march to Rome and give away the empire."

Mr. Randolph uses this expression:

"The Executives may appoint men devoted to them, and even bribe the Legislature."

Let us examine whether the last two Administrations are not amenable to both charges. They have appointed Cabinet officials, who are but themselves multiplied: men for whose acts they are officially responsible—(*Wilcox vs. Jackson, and Williams vs. the United States*)—men whose official misconduct has been under the investigation of this committee; men who formed the secret council of seven which framed and approved a despotic, hateful Constitution for a free people; who, leaving their departments and legitimate business, carry the Cabinet into delegated conventions of the people; who manifest the deepest interest in the elections of the people, and whose velvet footsteps (*in emergencies*) fall softly upon the carpets of either House of Congress.

They have commissioned and appointed the officers of the army and navy, those aristocratic blemishes in every free Government, (compelling them into collision with friendly States,) and with which *Faction* threatens to seize the reins of power, when that inevitable event has taken place, the election of a Republican President next November.

They have appointed foreign ministers, whose representations of our country's honor abroad have been manifested in conferences at Ostend,

or in intimidation and threats of grand larceny at Madrid.

They have appointed judges, whose *dicta* overturn the well-considered decisions of the great legal minds of former days, rebuke the spirit of the Revolution, and libel the motives of its authors; take from Congress ascertained and settled powers and duties, and make the Constitution of the Republic a letter-of-marque for slavery extensionists, reducing humanity to chattelhood, and fettering the slave's feet to soil which God made, and man has kept, free.

And, sir, the President has endorsed this doctrine; it has become the policy of his Administration, the principle of his party. And these *dicta*, thus given, have been claimed by the Democracy to be finalities, and as commanding obedience. And, to enforce obedience, and carry out these principles, they have appointed Governors, Secretaries, and Marshals; prepared Constitutions, and arrayed armies; and have worked out the problem in blood and shame upon the prairies of Kansas.

He appoints collectors of customs, and kindred officials, swarming wherever tide water flows—men residing in each State, exerting their official influence in that State, but owing fealty to the Federal centre alone—men who control State Conventions and election precincts by violence, whose salaries are assessed by the central power for corruption funds, and who retrieve the same by extortions, by defalcations, by frauds upon revenue, and by passports to slavers.

Thus he has renewed that grievance of our fathers denounced in the Declaration of Independence:

"He has created a multitude of new offices, and sent hither swarms of officers to harass our people and to eat out their substance."

By these means the Administration has depleted the national treasury of millions, and impaired the national credit.

He appoints postmasters, who multiply over all the land, as the locusts came up over Egypt—officials ranging from the magnificent defaulter of New York to the mail distributor of the humble hamlet—men whose peculations or whose inefficiency alone, have submerged that Department in debt—men from whom are conscripted delegates to conventions, and each of whom form a petty nucleus of power to his neighborhood—men who "know no law but Roderick Dhu's commands"—who, at the sound of the horn, and beneath the lash of the huntsman, "will course with the hounds or form with the hare."

Can there be a more striking illustration of official corruption, than in these appointments and appointees, and stronger arguments for the entire abolition of the post office and the custom-house?

He appoints officials, multitudinous and nondescript, who swarm round the centre of patronage, throng the avenues of this metropolis, and who, for eight weeks, sat armed and blooded in the galleries of this House, ready to applaud every sentiment of treason, to overawe every expression of free opinion, and, if necessary, to join the Catilines of the Senate, and the Cethegi,

the Curii, and the Coeparii, of this House, to stab the patriotic men of either body, and to dissolve the Union.

Such, sir, is public patronage, such some of the prerogatives of the President, and such the result of their exercise. Have we, the Representatives of an outraged, plundered, oppressed people, have we infringed upon those prerogatives? If so, let the President inform us upon which. Have we done our duty, even? No, sir, no! We see these errors; we know them, but do not strike them down, as we should have done, as we should yet do.

Have not the words of Randolph been fully realized, and have I not fully demonstrated it? "The Executives may appoint men devoted to them." Let us examine whether the concluding clause of the sentence is correct: "And even bribe the Legislature."

By means of his appointees, the President has great power; by the promise and hope of such appointment, perhaps greater. Has he hesitated to apply that power to the National Legislature—he who has violated their privileges by this protest?

The whole Executive influence of his predecessor was exerted to force the Kansas-Nebraska bill through this House, thus repealing the compromise of 1820, avoiding that of 1850, and reopening the slavery agitation—a measure fraught with momentous evils to the whole country, but whose saddest consequences have been seen in the desolated hearths, violated franchises, and bloodshed of Kansas; and that still later sequel, the lawless raid into Virginia.

The present incumbent of the Presidency came into power by virtue of the fallacious principle contained in the Kansas-Nebraska measure, and under the pledge of "Free Kansas." His inaugural address repudiated the former, his first annual message repudiated both, and sought to force a slave Constitution upon the people of that Territory.

That, sir, was the measure of the first session of the Thirty-fifth Congress. To it the Administration stood pledged, and were in earnest.

The same Executive whose faith had been "Punic" to Walker and to Stanton, and whose efforts had been unceasing to coerce or bribe the adoption, by Territorial Convention and people, of such a Constitution, brought back their Constitution and their tactics to Washington and to Congress. Then, sir, might have been seen, in either wing of the Capitol, how the "Legislative was aggrandized at the expense of the Executive department." Persistently, menacing, seductively, the Executive approached the Representative, but for a time in vain. Republicans, Americans, Democrats in name, but freemen and free Representatives confronted, bore back the iniquity and its author, and "Lecompton, naked," was defeated.

And, sir, when that scheme came up in a modified and insidious form, what Executive Administrative influences were used? I say, what influences? Let the result and the Corode committee answer. I speak not alone of checks skillfully drawn to avoid detection, of official

patronage promised, of a return to this House assured to Representatives, of a social political cordon drawn between the obedient and refractory, of the smiles of Executive and Cabinet favor lavished upon one and withdrawn from another, of tremblers, or trimmers, who desired to fortify themselves by Cabinet advice, and *accidentally* voted against it, of *parvenues* whose heart's blood of principle congealed in the shade of a placeman's displeasure, and who have striven and are striving to buy back the sunshine of power, by infidelity to pledges and to the people. I speak not of any single one, but of all of these things, and ask the question, which department encroached upon the other, Executive or Legislative?

The bill passed, became a law, and the Constitution and the proffered bribe were indignantly spurned by the people of that Territory. They have framed a free Constitution, and their eloquent Delegate has come with it, and Kansas stands waiting at the gate of the Union, demanding admission. We, the Representatives of the people, have said, by our votes, swing wide those gates, and welcome our sorrowing sister in. Let her put off her weeds, and put on the garments of gladness, and become the thirty-fourth of the sisterhood, *the seventeenth of the free States of the Union*. But, sir, under the dictation of the Executive, the Democratic majority of the Senate bar her entrance, and defy the will of the people, which demands her admission.

But, sir, the Executive not only violates the privileges of this House, and interferes with its legislation, but everywhere it seeks to thwart the will and infringe upon the rights of the people. In Conventions it dictates platforms, and seeks to nominate candidates. At the ballot-box it dictates to the voters, and seeks to defeat their choice. The President is among the number of those who, having made an unworthy test, never pardons whoever dares to differ with or oppose him. Such, sir, has been emphatically his course, relative to those gentlemen who dared to differ with him on the *Leecompton policy*. Which of them has the President forgiven, and the re-election of which did he not oppose? Haskin, in my own State, true to his principles, met the sternest antagonism of the President, and through a fiery opposition came back here to confront his adversary.

Hickman, bearing in a feeble frame a brave, true soul, like a sword too mighty for its scabbard, the man who was requested by the President to pledge him in person for "Free Kansas," and who, like the radical Democracy of New York, sought and could find the republicanism of Jefferson and Madison only in the Republicanism of to-day—against him, too, were arrayed all the influences of Executive and Cabinet, but in vain. He stands here with clarion voice to speak for freedom and for privilege; and his masterly report in this case is a sufficient answer to the arrogance and sophistry of the President.

So with Harris, who died all too soon for his country, and others, elected for the first time against the minions of the Executive, in whose favor all the influence of office had been exerted;

Reynolds and Schwartz, and others, opposed with bitterness at the polls, denounced with malignancy by the Administration organs here, but lifted by their fidelity to principle above the cloud of Executive displeasure into the sunshine of the people's love.

While, sir, to testify still stronger his disregard of popular will, men whom the people have repudiated, have been made the favorite appointees of the President. Foreign missions, Heads of Departments, judicial positions, have been made the hospitals for the wounded, almshouses for the mendicants, or sepulchres for the dead.

Nor has his policy toward the refractory at the other wing of the Capitol been less summary or persistent. Urging against the re-election of the Senator from Illinois all the powers of the Government, he has ruptured the demoralized Democracy.

Obedying the behests of the Southern owners of the Democratic party, and counselling only with his own prejudice, he entered by his officials the last National Convention of that party, dictated its platform, and controlled its action.

And while with his left hand, there, he strangled squatter sovereignty and its author, with his right hand, here, he signed an official commission, with pen dipped in the blood of Broderick.

Striking down his foe on the Atlantic coast, because he had *hesitated*, *still hesitates*, and rewarding those who struck down his foe on the Pacific coast, because he never, *never hesitated*, but, true to all early instincts and teachings, "was opposed to the extension of slavery, and to a corrupt Administration."

I might allude, sir, to a still more odious interference of Executive power with popular rights and popular feelings. I mean the attempt on the part of the President and his predecessor to enforce the fugitive slave law—a law manifestly unconstitutional, and destructive of the most sacred rights of the citizen—a law whose enforcement by the minions of the Administration dragged Sims and Burns from the foot of Bunker Hill, as from sanctuary, stained the theretofore white glory of New England, and robbed Faneuil Hall in mourning—the enforcement of which makes you and me, Mr. Speaker, to chase the fugitives from chains over the graves of our Revolutionary fathers—the enforcement of which upon a bright Sabbath morn of April last, out upon the *free* sea, stopped a national steamer, lowered the flag of our country to half-mast, fired signal guns of distress, and there, under the blessed sunlight, and upon the bright waves, with brave "Old Hundred" chanted in impious mockery, sent the cowering, starving, half-dead fugitive back from anticipated freedom to servitude and stripes.

And, sir, by whom were God's law of freedom, God's law of the Sabbath, and our country's honor, violated? By men of New England, who had so far apostatized from all earlier and later faith and truth as to be Administration delegates to a *modern* Democratic National Convention.

Sir, entertaining these views, and in the light of these illustrative facts, the Republican Representatives regard with something of contempt

the charge in this protest, that they have invaded the rights or violated the prerogatives of the President. And, sir, in return, they charge upon him a violation of their most sacred privileges. And we call the attention of the country to the issue, and ask judgment upon it at the hands of the people. We ask their attention to the facts, that, to use his own words, "the only direct representative on earth of the people of all and each of the sovereign States" shrinks from an investigation of his official conduct by their Representatives. That in the luxury of power he has forgotten the true sources from which it comes; that he questions the right of their delegates to call him to accountability; that by patronage he has built up a central power, irresponsible to them, and designed to overawe them, and dangerous to their liberties; that he seeks so to wield that power as to intimidate or corrupt their Representatives; that by appointments to position he prostrates their will, and insults their judgment; that he seeks to control their conventions, dictate their party platform, and bias their popular elections.

That he has struck down every man who has dared to "stand up for the right," and elevates to position those who by a popular verdict have been declared unworthy.

That he has reversed the whole liberal and frugal policy of the Government. That by him

Freedom and Economy, those two pillars upon which Mr. Jefferson, in his inaugural, rested the Republic, have been beaten down. I quote the language of Mr. Jefferson:

"A wise and frugal Government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned."

"Equal and exact justice to all men, of whatever state or persuasion."

That, in short, by this protest he has not only broken the privileges of Representatives, but struck at the system of representation itself.

That by such breach of our privileges, and such attack upon our legislation, he has manifested the same spirit which urged the royal prerogativist to violate the privileges of the Commons of England, and attempts with armed hand to seize *their* committee of five.

And, sir, if this act should grow to a precedent, we, too, may one day see a President and his officials enter this House, armed, to arrest the Representatives of the people.

But, sir, mindful of our rights, and, higher far, the rights of our constituencies, we say to him, as said Mirabeau to a minion of prerogative—

"The representatives of the people have resolved to investigate. We are here, and do this by the will of the people, and will be deterred, or torn hence only by the force of bayonets."

